"But the statute (referring to Sec. 16 of the BANKRUPTCY ACT OF 1898), does not undertake to declare what effect the acts of creditors before the discharge, or in aiding the bankrupt to obtain a discharge, shall have, and consequently the effect of such acts is to be left to be determined upon general principles." *Calloway* v. *Snapp*, 78 Ky. 561. Sec. 16 of the Bankruptcy Act of 1898, the basis for the latter view, being in derogation of the common law, must be strictly construed, *In re Benedict, supra*, and when so construed applies to the discharge in bankruptcy, and does not refer to, nor have in view, any of the parties effecting a release of liability in law or in equity. LOVELAND, BANKRUPTCY, § 296, p. 850; *In re McDonald*, Fed. Cas. No. 8,753. Thus viewed, it is considered that it is the act of the creditor in consenting to the proposed composition that in fact effects the release of the principal debtor's liability on the note, regardless of his subsequent discharge in bankruptcy, and therefore, since the principal is released by agreement with the creditor, without the knowledge or consent of his surety or indorser, and not by operation of law; under the well recognized principle of law heretofore first referred to, the surety or indorser is discharged from his liability thereby. *In re Benedict, supra*, at 606 and 607. COLLIER, BANKRUPTCY, Ed. 8, p. 305. No case as yet is conclusive on either side, but the weight of reason seems to be with the latter view, and against the principal case.

BANKS AND BANKING—COLLECTIONS—INSOLVENCY OF COLLECTING BANK.—H bank sent an accepted draft to N bank for collection. N bank received in payment a check from D, the acceptor, on itself in the regular course of business, D being a depositor with the collecting bank and having on deposit a sum in excess of the check, and the collecting bank surrendered the draft to D, and remitted its own check to H bank, which was not paid because of the failure of the remitting bank. It was insolvent at the time of this transaction, but this fact was not known to its officials or the depositor. P, the drawer, brought action against D to recover the purchase price for which the draft was drawn. *Held*, that the above transaction constitutes a payment of the draft as between the drawer and the acceptor. *Pollak Bros.* v. *Niall-Herin Co.* (Ga. 1911), 72 S. E. 415.

When a bank receives a draft for collection, its relation to the owner is that of agent, until it credits him with the proceeds, and so becomes the principal debtor; and this charge of relation cannot be effected after the bank has failed. *First National Bank* v. *Bank of Monroe*, 33 Fed. 408. An agent to collect a draft has no authority to receive in payment anything but money. If it takes a check, it is agent of the drawer in collecting the check, and not until the money is obtained has it fulfilled its duty as agent of the holder of the paper. *Ward* v. *Smith*, 7 Wall. 447; *Farmers' Bank & Trust Co.* v. *Newland*, 97 Ky. 464; *Bank* v. *Cummings*, 89 Tenn. 609; *Morris* v. *Eufaula National Bank*, 106 Ala. 383; *Donogh* v. *Gillespie*, 21 Ont. App. 292; *Hazlett* v. *Commercial Nat. Bank*, 132 Pa. 118; *Tootle* v. *Cook*, 4 Colo. App. 111; *Bank of Antigo* v. *Union Trust Co.*, 149 Ill. 343; 1 MORSE, BANKS AND BANKING, Ed. 4, § 247. But the court in the principal case said that "the circumstances under which the draft was paid in this case are equivalent to the actual re-

ceipt of money." In *Ryan* v. *Paine,* 66 Miss. 678 and *Kinney* v. *Paine,* 68 Miss. 258 it was held that parties who sent a claim to a bank for collection, which the bank collected by taking the check of the debtor on itself, the debtor having no money in the bank, but merely becoming the bank's debtor by this overdraft, after the insolvency of the bank was declared, had the right to treat their debtor as still such, and enforce their claim to what he owed the bank for account of this transaction. These two cases are not in conflict with the principal case, but can be distinguished from it in the fact that the debtor in the former cases had no funds in the bank, while that in the latter had. The case of *Billingsley* v. *Pollock,* 69 Miss. 759, 30 Am. St. Rep. 585, is in accord with the principal case.

BILLS AND NOTES — INSTRUMENTS CONSTITUTING NEGOTIABLE NOTES. — D, who purchased certain jewelry of the Barton-Parker Manufacturing Co., signed an obligation in the form of a note, payable to the order of the company, on the same sheet of paper with a written order for the goods, but following after the order and printed between the two were the words, "To be detached and delivered to the shipping department," and immediately under the words and above the obligation was a perforated dotted line. The note was detached, and P was purchaser of it for value before its maturity, and in due course of trade. P brought action on it. *Held,* that the obligation was a negotiable instrument when detached, and P was not subject to the defense that the goods sold were worthless or not such as had been represented by the seller. *Cedar Rapids Nat. Bank* v. *Barnes* (Tex. Civ. App. 1912), 142 S. W. 632.

No other case exactly similar to the one under discussion has been found nor did the court cite any case to support its decision. The lower court held that the order for the goods and the note sued on constituted one contract, and that the Barton-Parker Manufacturing Co. had no authority to detach and negotiate the latter. The Court of Civil Appeals held that it was the intention of the parties to make the note a negotiable instument as indicated by the stipulation between the order and the note, "To be detached and delivered to the shipping department," and by the fact that the note was made payable to the order of the Barton-Parker Manufacturing Co. The defense on the ground that the jewelry for the purchase price of which the note was given was worthless cannot be maintained as against P for it is settled that failure of the consideration is no defense as against a bona fide purchaser for value. *Parsons* v. *Parsons,* 17 Colo. App. 154; *Post* v. *Abbeville & N. R. Co.,* 99 Ga. 232, 25 S. E. 405; *Clark* v. *Porter,* 90 Mo. App. 143; *Brown* v. *Feldwert,* 46 Or. 363, 80 Pac. 414.

CONTRACTS—ARBITRATION CLAUSE.—Assumpsit by a contractor and another against York city to recover a balance on a contract for the construction of a sewer system. The contract gave the city engineer authority to determine the quality, amount, acceptability and fitness of the several amounts of work and materials, and to decide all questions as to the measurement of quantities and the fulfillment of the contract, his conclusion to be the final adjudi-